

FILED: September 6, 2016

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUITNo. 16-1903, NLRB v. International Longshoremen's
10-CB-145609, 10-CB-148396

NOTICE OF JUDGMENT

Judgment was entered on this date in accordance with Fed. R. App. P. 36. Please be advised of the following time periods:

PETITION FOR WRIT OF CERTIORARI: To be timely, a petition for certiorari must be filed in the United States Supreme Court within 90 days of this court's entry of judgment. The time does not run from issuance of the mandate. If a petition for panel or en banc rehearing is timely filed, the time runs from denial of that petition. Review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only for compelling reasons.

(www.supremecourt.gov)

VOUCHERS FOR PAYMENT OF APPOINTED OR ASSIGNED

COUNSEL: Vouchers must be submitted within 60 days of entry of judgment or denial of rehearing, whichever is later. If counsel files a petition for certiorari, the 60-day period runs from filing the certiorari petition. (Loc. R. 46(d)). If payment is being made from CJA funds, counsel should submit the CJA 20 or CJA 30 Voucher through the CJA eVoucher system. In cases not covered by the Criminal Justice Act, counsel should submit the Assigned Counsel Voucher to the clerk's office for payment from the Attorney Admission Fund. An Assigned Counsel Voucher will be sent to counsel shortly after entry of judgment. Forms and instructions are also available from the clerk's office or from the court's web site, www.ca4.uscourts.gov, or from the clerk's office.

BILL OF COSTS: A party to whom costs are allowable, who desires taxation of costs, shall file a [Bill of Costs](#) within 14 calendar days of entry of judgment. (FRAP 39, Loc. R. 39(b)).

PETITION FOR REHEARING AND PETITION FOR REHEARING EN

BANC: A petition for rehearing must be filed within 14 calendar days after entry of judgment, except that in civil cases in which the United States or its officer or agency is a party, the petition must be filed within 45 days after entry of judgment. A petition for rehearing en banc must be filed within the same time limits and in the same document as the petition for rehearing and must be clearly identified in the title. The only grounds for an extension of time to file a petition for rehearing are the death or serious illness of counsel or a family member (or of a party or family member in pro se cases) or an extraordinary circumstance wholly beyond the control of counsel or a party proceeding without counsel.

Each case number to which the petition applies must be listed on the petition and included in the docket entry to identify the cases to which the petition applies. A timely filed petition for rehearing or petition for rehearing en banc stays the mandate and tolls the running of time for filing a petition for writ of certiorari. In consolidated criminal appeals, the filing of a petition for rehearing does not stay the mandate as to co-defendants not joining in the petition for rehearing. In consolidated civil appeals arising from the same civil action, the court's mandate will issue at the same time in all appeals.

A petition for rehearing must contain an introduction stating that, in counsel's judgment, one or more of the following situations exist: (1) a material factual or legal matter was overlooked; (2) a change in the law occurred after submission of the case and was overlooked; (3) the opinion conflicts with a decision of the U.S. Supreme Court, this court, or another court of appeals, and the conflict was not addressed; or (4) the case involves one or more questions of exceptional importance. A petition for rehearing, with or without a petition for rehearing en banc, may not exceed 15 pages. Copies are not required unless requested by the court. (FRAP 35 & 40, Loc. R. 40(c)).

MANDATE: In original proceedings before this court, there is no mandate. Unless the court shortens or extends the time, in all other cases, the mandate issues 7 days after the expiration of the time for filing a petition for rehearing. A timely petition for rehearing, petition for rehearing en banc, or motion to stay the mandate will stay issuance of the mandate. If the petition or motion is denied, the mandate will issue 7 days later. A motion to stay the mandate will ordinarily be denied, unless the motion presents a substantial question or otherwise sets forth good or probable cause for a stay. (FRAP 41, Loc. R. 41).

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UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-1903
(10-CB-145609)
(10-CB-148396)

NATIONAL LABOR RELATIONS BOARD

Petitioner

v.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL 1838

Respondent

J U D G M E N T

The Board's proposed judgment and order are attached hereto and are adopted as the judgment of this court enforcing an order of the National Labor Relations Board.

The court's mandate shall issue forthwith.

/s/ PATRICIA S. CONNOR, CLERK

UNITED STATES COURT OF APPEALS
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NATIONAL LABOR RELATIONS BOARD

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INTERNATIONAL LONGSHOREMEN'S
ASSOCIATION, LOCAL 1838

Respondent

No. 16-1903

Board Case Nos.:

10-CB-145609

10-CB-148396

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, International Longshoremen's Association, Local 1838, its officers, agents, successors, and representatives, enforcing its order dated June 16, 2016, in Case Nos. 10-CB-145609 and 10-CB-148396, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, International Longshoremen's Association, Local 1838, its officers, agents, successors, and representatives, shall abide by said order (See Attached Order and Appendix).

Mandate shall issue forthwith.

NATIONAL LABOR RELATIONS BOARD

v.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL 1838

ORDER

International Longshoremen's Association, Local 1838, its officers, agents, successors, and representatives, shall

1. Cease and desist from
 - a. Refusing for arbitrary reasons to refer members of the bargaining unit under our contract with the South Atlantic Employer's Negotiating Committee.
 - b. Refuse to follow the posted referral rules, dated December 17, 2013, when selecting members for add-on or replacement work.
 - c. In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
 - a. Fairly represent all members of the bargaining unit under our contract with the South Atlantic Employer's Negotiating Committee
 - b. Refer bargaining unit members for work according to our established hiring hall rules.
 - c. Make Michael E. Clewis whole for any loss of earnings and other benefits suffered as a result of our refusal to refer him for employment as a replacement worker on November 27, 2014, in the manner set forth in the remedy section of the decision.
 - d. Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

- e. Within 14 days after service by the Region, post at its hiring hall in the Southport area of North Carolina, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 10, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its members by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.
- f. Sign and return to the Regional Director sufficient copies of the notice for physical and/or electronic posting by Ports America and SSA Cooper, if willing, at all places or in the same manner as notices to employees are customarily posted.
- g. Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX**NOTICE TO EMPLOYEES**

**POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post, mail and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain on your behalf with your employer

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT, for arbitrary reasons, deny you referrals under our contract with the South Atlantic Employer's Negotiating Committee.

WE WILL NOT refuse to follow the posted referral rules, dated December 17, 2013, when selecting bargaining unit employees for add-on or replacement work.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL fairly represent all members of the bargaining unit.

WE WILL make all referrals of bargaining unit members in accordance with the established hiring hall rules.

WE WILL make Michael E. Clewis whole for any loss of earnings and other benefits suffered as a result of our refusal to refer him for employment as a replacement worker on November 27, 2014, in the manner set forth in the remedy section of the decision.

**INTERNATIONAL LONGSHOREMEN'S
ASSOCIATION, LOCAL 1838**

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want

union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

233 Peachtree Street N.E., Harris Tower, Suite 1000, Atlanta, GA 30303-1531
(404) 331-2896, Hours: 8 a.m. to 4:30 p.m.

The Administrative Law Judge's decision can be found at www.nlr.gov/case/10-CB-145609 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (404) 331-2870.